

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 7, 2009

TO: Persons on the attached mailing list.

RE: 301 Lone Oaks Partners, Ltd.
TPDES Permit No. WQ0014870001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Harris County Public Library, Baldwin Boettcher Branch, 22248 Aldine Westfield Road, Humble, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

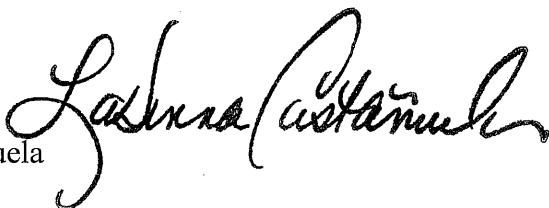
Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,

LaDonna Castañuela
Chief Clerk



LDC/lg

Enclosures

MAILING LIST
for
301 Lone Oaks Partners, Ltd.
TPDES Permit No. WQ0014870001

FOR THE APPLICANT:

Cliff Parks
Lippke Cartwright & Roberts, Inc.
7322 Southwest Freeway, Suite 1717
Houston, Texas 77074

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Daniel W. Ingersoll, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Kent H. Trede, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE
via electronic mail:

Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

PROTESTANTS/INTERESTED PERSONS:

See attached list.

ARDIFF, MEGGAN
21310 BROZE RD
HUMBLE TX 77338-1266

BLAIR, GAIL
31419 BLUE HERON LN
FULSHER TX 77441

CARMICHAEL, NANCY
26114 WILDFLOWER DR
MAGNOLIA TX 77354

DAVID, STEVEN
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, ADDY ARDIFF
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, DEENEN P
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, DENNIS & PEGGY
21310 BROZE RD
HUMBLE TX 77838

FULTON JR, DENNIS
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON SR, DENNIS
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, ELLIE ARDIFF
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, KRISTINA J
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, PEGGY I
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, S D
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, SCOTT A
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, STEPHANIE DAVID
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, SUSAN D
21310 BROZE RD
HUMBLE TX 77838

FULTON, TIFFANY & TYLER
21310 BROZE RD
HUMBLE TX 77838

FULTON, TIFFANY
21310 BROZE RD
HUMBLE TX 77338-1266

FULTON, TYLER
21310 BROZE RD
HUMBLE TX 77338-1266

LACY, JESSICA A
21414 BROZE RD
HUMBLE TX 77338-1259

LITTLE, HERMAN
1100 LOUISIANA ST STE 400
HOUSTON TX 77002-5211

ROARK, LORA J
430 CASTLEBAR CT
HOSTON TX 77015

PROPOSED TPDES PERMIT NO. WQ0014870001

2009 MAY -4 PM 3:19

CHIEF CLERKS OFFICE

**APPLICATION BY
301 LONE OAKS PARTNERS,
LTD. FOR TPDES PERMIT
NO. WQ0014870001**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by 301 Lone Oaks Partners, Ltd. (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014870001 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (TAC), Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant, comments. The Office of the Chief Clerk timely received comment letters and comments at the public meeting from Gail Blair, Nancy Carmichael, Dennis Fulton, Jessica A. Lacy, and Lora Roark.

The Office of Chief Clerk received timely written comments from the following individuals who signed and submitted identical comment letters: Addy Ardiffe-Fulton, Ellie Ardiffe-Fulton, Meggan Ardiffe, Steven David, Deenen P. Fulton, Dennis Fulton, Kristina J. Fulton, Peggy Fulton, Scott A. Fulton, Susan D. Fulton, Stephanie Fulton-David, Tiffany Fulton, and Tyler Fulton. These commenters are hereinafter referred as Group 1.

The Office of Chief Clerk received timely, written comments from the following individuals who signed the same letter: Dennis Fulton, Peggy Fulton, Susan D. Fulton, Tiffany Fulton, and Tyler Fulton. These commenters are hereinafter referred to as Group 2.

This Response addresses all comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ's Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

I. BACKGROUND

A. DESCRIPTION OF FACILITY

Applicant has applied for a new permit, proposed TPDES Permit No. WQ0014870001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 252,000 gallons per day. The 301 Lone Oaks Wastewater Treatment Facility will be an activated sludge process plant operated in the complete mix mode. Treatment units will include a bar screen, aeration basin, final clarifier, aerobic sludge digester, and chlorine contact chamber. The facility has not been constructed.

The effluent limitations in the draft permit, based on a 30-day average, are 10 milligrams per liter (mg/l) 5-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The proposed facility will be located approximately 2,800 feet south of Cypress Creek, north of Farm-to-Market Road 1960, 3,600 feet west of Cypresswood Drive in Harris County, Texas. The facility will serve a residential subdivision. The treated effluent will be discharged to an unnamed ditch, which flows into a county roadside ditch, which flows into a county drainage channel, which flows into Turkey Creek, which flows into Cypress Creek, which flows into Spring Creek, which flows into the San Jacinto River in Segment No. 1009 of the San Jacinto River Basin. The unclassified receiving water uses are no significant aquatic life uses for the unnamed ditch and county roadside ditch. The designated uses for Segment No. 1009 are high aquatic life uses, public water supply, and contact recreation.

B. PROCEDURAL BACKGROUND

The application was received on January 10, 2008, and declared administratively complete on March 6, 2008. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on April 4, 2008 in the *Houston Chronicle*. The Executive Director completed the technical review of the application on April 24, 2008, and prepared a draft permit. Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on August 15, 2008 in the *Houston Chronicle*. Notice of Public Meeting was published on December 19, 2008 in the *Houston Chronicle*. A public meeting was held on January 20, 2009 in Houston, Texas. The public comment period ended on January 20, 2009.

This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

C. ACCESS TO RULES, LAWS, AND RECORDS

Please consult the following websites to access the rules and regulations applicable to this permit:

- To access the Secretary of State website: www.sos.state.tx.us;
- For TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality");
- For Texas statutes: www.capitol.state.tx.us/statutes/statutes.html;
- To access the TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules");
- For Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm; and
- For Federal environmental laws: www.epa.gov/epahome/laws.htm.

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The application for this facility has been available for viewing and copying at the Harris County Public Library, Baldwin Boettcher Branch, 22248 Aldine Westfield Road, Humble, Texas since publication of the NORI. The draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

II. COMMENTS AND RESPONSES

COMMENT 1:

The commenters from Group 2 expressed general concerns over the plans for the wastewater treatment plant. Dennis Fulton inquired as to why the plans for the proposed wastewater treatment plant were not available, and how a permit could be issued if there were no solid plans.

RESPONSE 1:

Section 217.5(a) of the Commission rules requires the permittee "to build a wastewater collection system or treatment facility according to the plans and specifications approved by the executive director." Section 217.5(d) requires a permittee to "ensure that its facility plans and specifications meet all design requirements in the associated wastewater permit." Under Section 217.5(c), the Executive Director's "approval of a wastewater permit does not relieve an owner of the responsibility to obtain a plans and specifications approval for a facility in accordance with" 30 TAC Chapter 217. In accordance with Section 217.6(a) of the Commission rules, an "owner is not required to submit collection system or treatment facility plans and specifications for approval prior to the commission issuing the facility's wastewater permit."

The applicant is required to include basic design information in the wastewater application submitted to the TCEQ. Final plans may not be available since the effluent limitations found in the draft permit are based on technical review of the proposed

discharge route and may be more stringent than the limitations proposed in the application. The applicant will be required to design a wastewater treatment facility that can meet the effluent limits imposed in the draft permit by the Executive Director. The draft permit does not authorize the applicant to commence construction of the facility. The applicant must submit either a summary transmittal letter or the plans and specifications for the design of the plant for approval by the Executive Director before construction can begin. Accordingly, Other Requirement No. 8 in the draft permit requires that prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications, and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 of the draft permit.

COMMENT 2:

Dennis Fulton expressed concerns about the impact of the proposed discharge on native wildlife and wildlife in the area.

RESPONSE 2:

The draft permit was developed to protect aquatic life, human health, and the environment in accordance with the Texas Surface Water Quality Standards. As part of the permit application process, the Executive Director must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. In this case, the treated wastewater from the plant will be discharged to an unnamed ditch, then to a county roadside ditch, then to a county drainage channel, then to Turkey Creek, then to Cypress Creek, then to Spring Creek, then to the San Jacinto River in Segment No. 1009 of the San Jacinto River Basin. The unclassified receiving water uses are no significant aquatic life uses for the unnamed ditch and county roadside ditch. The designated uses for Segment No. 1009 are high aquatic life uses, public water supply, and contact recreation.

The proposed draft permit includes effluent limitations and monitoring requirements for 5-day Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), Ammonia Nitrogen, Dissolved Oxygen (DO), chlorine residual, and pH to ensure that discharges from the proposed wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. The proposed draft permit includes requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules. The Executive Director expects that human health and the environment will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules. The Executive Director has determined that the proposed draft permit is protective of the environment, water quality, and human health in accordance with TCEQ rules and requirements. Any noncompliance with the terms of the proposed draft permit could result in enforcement action against the permittee.

The Commission does not have specific water-quality based effluent limitations for wildlife. However, the TCEQ Water Quality Assessment Section has determined that the proposed draft permit for the facility meets the requirements of the Texas Surface Water Quality Standards, which are established to protect human health and terrestrial and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms. In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. This review has preliminarily determined that no significant degradation of high quality waters is expected and that existing uses will be maintained and protected.

Additionally, the Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 in the proposed draft permit states that the Applicant must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater. In addition, the plans and specifications for this wastewater treatment plant must be approved by TCEQ.

Permit Condition No. 2(d) in the proposed draft permit requires the Applicant to take all reasonable steps to minimize or prevent any discharge, disposal, or other permit violation that has a reasonable likelihood of adversely affecting human health and the environment. Permit Condition No. 2(g) in the proposed draft permit states that there shall be no unauthorized discharge of wastewater or any other waste. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to TCEQ within the prescribed time period, the Applicant will be subject to enforcement by TCEQ. At the time of any accidental discharge, TCEQ and other local governmental entities will determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

COMMENT 3:

Dennis Fulton expressed concern that the proposed 252,000 gallon per day capacity was insufficient to meet the needs of 800 or more connections in the proposed development.

RESPONSE 3:

Permitted flow is based on calculations which include the number of connections and the expected flow per connection. Section 217.32(a)(3) of the Commission rules provide a per connection flow of 75-100 gallons per person and provides for up to 3.5 persons per connection. Based on these numbers, a permitted flow of 252,000 is appropriate for this residential development.

COMMENT 4:

Dennis Fulton expressed concern that the issuance of the permit will destroy the value of the surrounding properties. Several commenters, including Gail Blair, Nancy Carmichael, Lora Roark, and the commenters from Group 1, expressed concern that the proposed facility, or the discharge from the proposed facility, would interfere with the use and enjoyment of property downstream.

RESPONSE 4:

The TCEQ's jurisdiction over the permitting process is established by the Legislature and is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. While the TCEQ has the authority to condition the issuance of a permit on the selection of a site that minimizes impacts on ground and surface waters, and to minimize nuisance conditions,¹ the Commission does not have the authority to address concerns about property values or resale of homes as part of the wastewater permitting process. The scope of the Agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property.

However, several TCEQ rules reflected in the draft permit are designed as protections against aesthetic impacts. In particular, 30 TAC § 307.4 (b) of the Texas Surface Water Quality Standards enumerates a number of aesthetic parameters of watercourses which cannot be interfered with by a permitted wastewater discharge. The following are some of the parameters: odor; watercourse being essentially free of floating debris, suspended solids and settleable solids; watercourse must maintain aesthetically attractive conditions; no foaming or frothing of a persistent nature in the watercourse; and no visible film, on the surface, banks or bottoms of watercourse from oil and grease.

COMMENT 5:

Jessica A. Lacy expressed concern over the Applicant's previous, withdrawn attempts to apply for a TPDES permit at this site. Ms. Lacy was concerned that the Applicant withdrew its previous application because of multiple procedural deficiencies, such as a failure to notify all affected parties, and that the Applicant repeated those improper procedures in the current application.

¹ See 30 TAC § 309.10.

RESPONSE 5:

The TCEQ's review of an application is limited to the requirements set forth in Chapter 26 of the Texas Water Code, and applicable state rules set forth in the Texas Administrative Code. Each permit application is assessed individually for administrative and technical compliance with the Texas Water Code and the Commission rules.

Notice provisions for applicants and the Commission are found at Title 30, Texas Administrative Code, Chapter 39. When the Executive Director determines that an application is administratively complete, the Chief Clerk mails this determination, along with a Notice of Receipt of Application and Intent to Obtain Permit (NORI), to the Applicant.² Not later than 30 days after the Executive Director determines that the application is administratively complete, the Applicant must publish the NORI in the newspaper that has the largest circulation within the county or municipality in which the facility is located.³ The Applicant must also make a copy of the administratively complete application available for public viewing in the county in which the facility is located.⁴

After completing the technical review of an application, the Executive Director files its preliminary determination and the draft permit with the Chief Clerk.⁵ The Chief Clerk must mail the preliminary decision, along with the Notice of Application and Preliminary Decision (NAPD), to the Applicant, who must then publish the NAPD in the same newspaper as the NORI.⁶ The Chief Clerk must also mail the NAPD to landowners named on the application map and to persons who have filed public comment or hearing requests.⁷

The NAPD must set a deadline for filing public comments with the Chief Clerk that is no earlier than 30 days after its publication in a newspaper.⁸ If the Executive Director holds a public meeting on the application after the 30 day period, then the public comment period is automatically extended to the end of the public meeting.⁹ The

² 30 TAC § 39.418(a).

³ 30 TAC § 39.405(f).

⁴ 30 TAC § 39.405(g).

⁵ 30 TAC § 39.419(a).

⁶ 30 TAC § 39.419(b).

⁷ 30 TAC § 39.413.

⁸ 30 TAC § 39.551(c)(3).

⁹ 30 TAC § 55.152(b).

Executive Director or the Office of Public Assistance (OPA) may hold a public meeting at any time in the county where the facility is located if there is evidence of substantial public interest, or if a legislator representing the general area where the facility will be located requests a meeting.¹⁰ After the end of the public comment period, the Executive Director must file a Response to Public Comments, addressing all timely, relevant and material, or significant public comments, whether submitted during the comment period or during the public meeting, and regardless of whether the comments were withdrawn.¹¹

In this case, the application was received on January 10, 2008, and declared administratively complete on March 6, 2008. The NORI was published on April 4, 2008 in the *Houston Chronicle*. The Executive Director completed the technical review of the application on April 24, 2008, and prepared a draft permit. The NAPD was published on August 15, 2008 in the *Houston Chronicle*. Due to the level of public interest in this matter, the Executive Director exercised its discretion to hold a public meeting under 30 TAC § 55.154(c). Notice of the Public Meeting was published on December 19, 2008 in the *Houston Chronicle*, and a public meeting was held on January 20, 2009 in Houston, Texas.

Finally, as stated above, the application for this facility, the draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the Harris County Public Library, Baldwin Boettcher Branch, 22248 Aldine Westfield Road, Humble, Texas. The Applicant has demonstrated compliance with the notice requirements outlined in this section. The Executive Director cannot identify any notice procedural irregularities related to this permit application.

COMMENT 6:

Jessica A. Lacy expressed concern that the application did not show the location of nearby water wells, especially the wells of adjacent landowners.

¹⁰ 30 TAC § 55.154(c).

¹¹ 30 TAC § 55.156.

RESPONSE 6:

As a part of the TCEQ Domestic Wastewater Permit Application, public wells are to be marked on the map provided under Item 5 of the Domestic Administrative Report. There is no similar requirement that the private well location of adjacent landowners be provided in the application. However, Item 2(c) on page 13 of the Domestic Administrative Report 1.1 requires the applicant to certify that the proposed facility meets the unsuitable site characteristics found in 30 TAC §§ 309.13(a)-(d). Section 309.13(c) of the Commission rules states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. The Applicant indicated that they are in compliance with 30 TAC §§ 309.13(a)-(d) in the application. The Executive Director will investigate any violation relating to the well spacing requirements outlined above. However, no wells were identified, nor distances provided in the comment to assist the Executive Director in conducting an investigation in this case.

COMMENT 7:

Jessica A. Lacy expressed concern that the application on display at the Baldwin-Boettcher Public Library was missing several pages.

RESPONSE 7:

Under 30 TAC § 39.405(g), the Applicant is required to make a copy of the administratively complete application available for viewing in a public place in the county in which the proposed facility is located. The Applicant is also required to keep the publicly-available copy of the application updated with subsequent revisions to the application. *See* 30 TAC § 39.405(g)(2). On January 20, 2009, in response to this comment, the Executive Director contacted a representative of the Harris County Public Library, Baldwin Boettcher Branch, 22248 Aldine Westfield Rd., Humble, Texas, where the application for this matter is on display. The representative of the library affirmed that the application on display was available and intact.

COMMENT 8:

Jessica A. Lacy expressed concern that the proposed residential development is located on valuable, federally-protected wetlands.

RESPONSE 8:

The TCEQ's jurisdiction over the TPDES permitting process is established by the Legislature and is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters.¹² The TCEQ does not have authority over the creation of residential developments under this permitting process.

Furthermore, authority over the protection of wetlands against unauthorized dredge and fill activity has been granted to the U.S. Army Corps of Engineers through the federal Clean Water Act Section 404 permitting program. To the extent the Applicant's residential development will impact protected wetlands, the Applicant will be required to apply for a dredge and fill permit with the Army Corps of Engineers (Army Corps). Pursuant to Section 401 of the Clean Water Act, the Applicant will be required to obtain a water quality certification from the Commission before the Army Corps will issue a federal permit to discharge into waters in the state of Texas. Additionally, the Applicant will be required to comply with the water quality certification rules contained in Title 30, Texas Administrative Code, Chapter 279.

The TCEQ regulates the siting of domestic wastewater treatment plants under Chapter 309 of the Commission rules. Section 309.13(b) states that "a wastewater treatment plant unit may not be located in wetlands." 30 TAC § 309.13(b). Under the rules, "wetlands" are defined as follows:

Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, playa lakes, and similar areas.

See 30 TAC § 309.11(10).

¹² *See* Tex. Water Code § 26.027(a).

As a part of the TPDES application process, the Applicant must indicate in Item 2(c) of the Domestic Administrative Report 1.1 whether the proposed facility complies with the unsuitable site characteristics requirements found at 30 TAC §§ 309.13(a)-(d), which includes the wetlands requirements cited above. The Applicant in this case indicated that they are in compliance with these rules. If it is determined that the Applicant is in violation of the unsuitable site characteristic requirements, the Executive Director will take appropriate actions consistent with the Texas Water Code and the Commission rules to halt the construction of the wastewater treatment plant.

COMMENT 9:

Jessica A. Lacy expressed concern that an expansion of the “proposed drainage ditch on Harris County Flood Control property” was located on the Harris County Spring Creek Greenway Project, and that expanding the ditch for the proposed effluent will damage the park area. Ms. Lacy also expressed concern that the expansion of the proposed unnamed ditch would damage federally-protected wetlands.

Dennis Fulton expressed concern that the application contained no plans or specifications as to the depth and location of the receiving ditch for the proposed facility.

RESPONSE 9:

According to the property maps submitted by the Applicant, the “proposed drainage ditch on Harris County Flood Control property” appears to be the segment of the discharge route referred to as “county drainage channel” in the draft permit. This county drainage channel is not on the Applicant’s property, and therefore the Applicant would have no authority to enter that property to expand the channel.

As stated in Response to Comment No. 8, the construction of a domestic wastewater treatment plant on wetlands is prohibited. The Applicant would have to comply with Sections 401 and 404 of the federal Clean Water Act to commence any project that would impact wetlands. Additionally, the applicant will be required to obtain a water quality certification for the project.

A permit does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. It is the duty of the

Applicant to obtain any permits, rights, or easements necessary to use the discharge route approved in the permit when the route involves a pipeline or use of a constructed storm water drainage ditch that crosses property not owned by the permittee.

As for the construction of conveyances of wastewater on the Applicant's own property, the Applicant would be responsible for designing any man-made ditch to be adequate for the conveyance of the treated wastewater authorized in the draft permit.

COMMENT 10:

Jessica A. Lacy expressed concern over several items in the application that she felt were misleading. Ms. Lacy expressed concern that the "Single-Family Housing Market Demand Analysis" conducted by Metrostudy in 2005 was out of date, and therefore was insufficient for the Municipal Utility District application on this site.

Ms. Lacy expressed concern that the proposed lot sizes were incorrect, and that the proposed tax revenues were incorrect. Ms. Lacy also expressed concern that there are proposed lots sited on the same location as the proposed detention ponds and that the "Director's Lots are located in the proposed development detention pond site."

Ms. Lacy expressed concern that the President of the Board of Directors, Lester Ray Peterson, had a conflict of interest because he also worked with the development partnership. Ms. Lacy also expressed concern that the owner of the land for the proposed development holds both an Industrial Wastewater Permit for the land, and most of the property covered by the Municipal Utility District. Ms. Lacy was concerned that this was a conflict of interest.

Jessica A. Lacy expressed concern that the Applicant reported inconsistent district acreage totals to the TCEQ and the Harris County Flood Control District.

RESPONSE 10:

The Executive Director acknowledges the concerns expressed by Ms. Lacy in Comment No. 10; however, the issues raised in the comment pertain to an application for a Municipal Utility District creation or an Industrial Wastewater permit. These are separate permitting matters with their own notice requirements, administrative review,

technical review, and opportunities for public participation. The issues raised in this comment are not relevant or material to the present TPDES permit application.

COMMENT 11:

Jessica A. Lacy expressed concern that the letters mailed to the surrounding Municipal Utility Districts were out of date, and that the Applicant needs to re-send those letters.

RESPONSE 11:

It is the policy of the Commission to encourage regionalization. The Executive Director assumes that Ms. Lacy is raising concerns about the adequacy of the regionalization inquiry conducted by the Applicant.

It is the policy of the state to “encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.”¹³ To implement this policy, the Applicant for a wastewater discharge permit is required to provide information regarding any wastewater treatment and/or collection system within three miles of the area to be served. This requirement is found in Domestic Technical Report 1.1 No. 1(c).

If there is a wastewater treatment or collection system within three miles of the area to be served, the Applicant is required to provide information to the Executive Director as to whether such facility currently has the capacity to accept the volume of wastewater proposed in the application. If the capacity exists to accept the volume of wastewater proposed in the application, the Applicant is then required to attach an analysis of the expenditure required for a connection to the existing facility. Additionally, the Applicant is required to provide copies of all correspondences with the owners of the existing facilities within three miles of the proposed facility regarding connection to their system. These requirements are also found in Domestic Technical Report 1.1 No. 1(c).

¹³ Tex. Water Code § 26.081(a).

Furthermore, the TCEQ has a standard regionalization provision in the draft permit for this application that reads as follows:

Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the waste authorized to be collected in, treated by or discharged from said system to such area-wide system; or to amend this permit in other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

This provision is found at Operational Requirements No. 8(c) of the draft permit.

In response to this comment, the Executive Director requested that the Applicant provide updated capacity letters from any regional wastewater treatment provider within three miles of the plant. On April 24, 2009, the Executive Director received updated correspondences from the Applicant showing that the regional providers continue to have no ability to accept the capacity proposed by this application. The correspondences are attached to this Response as *ED's Attachment A*.

COMMENT 12:

Jessica A. Lacy submitted a comment asking that the Applicant perform an "environmental impact study."

RESPONSE 12:

The TCEQ's domestic wastewater permitting process does not require the Applicant to prepare an environmental impact study or statement.

COMMENT 13:

Jessica A. Lacy expressed a general concern over the potential for air pollution from the proposed facility.

RESPONSE 13:

The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. In accordance with 30 TAC § 106.532, wastewater treatment plants have undergone this review and are permitted by rule, provided the wastewater treatment plant only performs the functions listed in the rule. Finally, the TCEQ is the agency responsible for enforcing air pollution laws. Air quality complaints about this facility or suspected incidents of noncompliance with the permit or TCEQ rules may be reported to the TCEQ Region 12 Office in Houston at 713-767-3500, or by calling the Environmental Violations Hotline at 1-888-777-3186. The Office of Compliance and Enforcement will investigate such complaints and the Commission will assess penalties or take other appropriate actions to address any substantiated reported violation.

COMMENT 14:

Jessica A. Lacy expressed concern that the discharge from the proposed facility would create runoff that would infiltrate the groundwater.

RESPONSE 14:

Runoff is not expected to be a concern if this facility is operated and maintained in accordance with the Commission rules and the provisions in the draft permit. Runoff could be a concern when there is an unauthorized discharge of raw sewage and the discharge is not immediately contained. There are safeguards and reporting requirements in the draft permit to protect against unauthorized discharges of sewage and the possibility of runoffs. Finally, the effluent limits in the draft permit are designed to be protective of surface water, human health, and the environment.

COMMENT 15:

Several commenters, including Gail Blair, Nancy Carmichael, Lora Roark, and the commenters from Group 1, expressed concern over the potential for accidental discharges or overflow of effluent from the proposed facility.

In addition, several commenters expressed a general concern over the operation of the proposed facility, including Gail Blair, Nancy Carmichael, Lora Roark, and the commenters from Group 1 and Group 2. Some of these commenters expressed concern over the management and upkeep of the proposed facility in light of the problems faced by these types of facilities during and after hurricanes. These commenters included Gail Blair, Nancy Carmichael, Lora Roark, and the commenters from Group 1.

RESPONSE 15:

The draft permit for this facility contains requirements meant to protect human health, safety, and the environment from the threat of accidental discharge. First, item 2(g) on page 7 of the proposed draft permit states a general prohibition against unauthorized discharges: “There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.”

Operational Requirement No. 1 on page 9 of the proposed draft permit requires that “[t]he permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.” Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

Operational Requirement No. 4 on page 10 of the proposed draft permit states that the “permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguard to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources,

standby generators, and/or retention of inadequately treated wastewater.”

The Applicant is also required to comply with Section 309.13(a) of the Commission rules – “A wastewater treatment plant unit may not be located in the 100-year flood plain unless the plant unit is protected from inundation and damage that may occur during that flood event.”

Finally, in accordance with 30 TAC § 305.125(9) and Monitoring and Reporting Requirements number 7, the permittee is required to report any noncompliance with the permit that could endanger human health, safety, or the environment to the TCEQ. The permittee shall report such information orally or by facsimile transmission to the Regional Office within 24 hours of becoming aware of the noncompliance. Should these conditions and/or other potential violations of the draft permit be observed at the facility, observers are encouraged to report an environmental violation by calling toll-free, 1-888-777-3186 or calling the TCEQ, Region 12 Office, at (713) 767-3500. On a complaint basis, the regional investigators will investigate the conditions at the facility. If the regional investigator documents a violation of TCEQ regulations or conditions in the permit, then appropriate action will be taken.

COMMENT 16:

Several commenters, including Gail Blair, Nancy Carmichael, Lora Roark, and the commenters from Group 1, expressed concern that the facility would add to the potential for flooding problems in the area.

RESPONSE 16:

TCEQ is not authorized to address flooding concerns in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state’s rivers, lakes and coastal waters. The draft permit includes effluent limits and monitoring requirements to ensure that the proposed discharge meets water quality standards. In addition, the draft permit requires disinfection of the treated effluent and includes monitoring requirements to ensure that adequate disinfection is maintained. The Applicant must meet these standards, even during periods of flooding.

In addition, the Applicant is required to comply with Section 309.13(a) stating that a “wastewater treatment plant unit may not be located in the 100-year flood plain unless the plant unit is protected from inundation and damage that may occur during that flood event. In this case, the Applicant indicates that the facility is located above the 100-year flood plain.

COMMENT 18:

The commenters from Group 2 expressed a general concern over the location of the proposed facility.

RESPONSE 18:

The Texas Water Code, Section 26.121, authorizes discharges into waters of the state, provided the discharger obtains a permit from the Commission. TCEQ does not have the authority to mandate a different discharge location. TCEQ evaluates applications for wastewater treatment plants based on the information provided in the application.

COMMENT 19:

Dennis Fulton expressed concern that the Applicant purchased several feet of adjacent property because of their contamination of the soil with carcinogens, and is concerned that the proposed facility will discharge effluent over that portion of contaminated land.

RESPONSE 19:

The Executive Director is unaware at this time of any illegal discharges associated with the Applicant or Skinner Lands Turkey Creek, LLC on property associated with this permit application. The Applicant has a compliance history rating of “average” by default because it is a new facility. A compliance history of Skinner Lands Turkey Creek, LLC, the previous owner of the property, taken from September 1, 2003 to August 31, 2008, shows no enforcement orders, court judgments, consent decrees, or criminal convictions. The compliance history does show a moderate violation in 2005 for failure

to submit monitoring reports under 30 TAC § 305.125(17), and a minor violation in 2007 for failure to submit a Monthly Discharge Report under 30 TAC 319(c); however, no other violations are noted.

However, the Applicant may be subject to enforcement and remediation for illegal discharges under a permit or simply for an illegal discharge of solid waste, depending on the nature and substance of the discharge. Should a potential violation be observed at the facility, observers are encouraged to report such violation by calling toll-free, 1-888-777-3186 or calling the TCEQ, Region 12 Office, at (713) 767-3500. On a complaint basis, the regional investigators will investigate the conditions at the facility. If the regional investigator documents a violation of TCEQ regulations or conditions in the permit, then appropriate action will be taken.

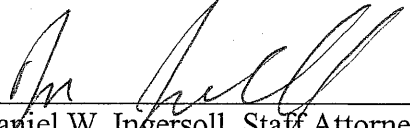
NO CHANGES TO THE DRAFT PERMIT HAVE BEEN MADE IN RESPONSE TO PUBLIC COMMENT.

Respectfully submitted,

Texas Commission on Environmental
Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

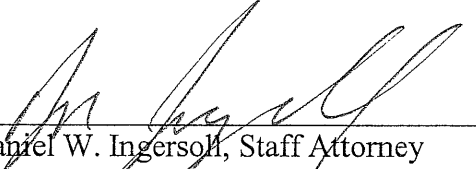


Daniel W. Ingersoll, Staff Attorney
Environmental Law Division
State Bar No. 24062794
P.O. Box 13087, MC 173
Austin, TX 78711-3087
Telephone No.: 512-239-3668
Facsimile No.: 512-239-0606

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on May 4, 2009, the "Executive Director's Response to Public Comment" for Permit No. WQ0014870001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

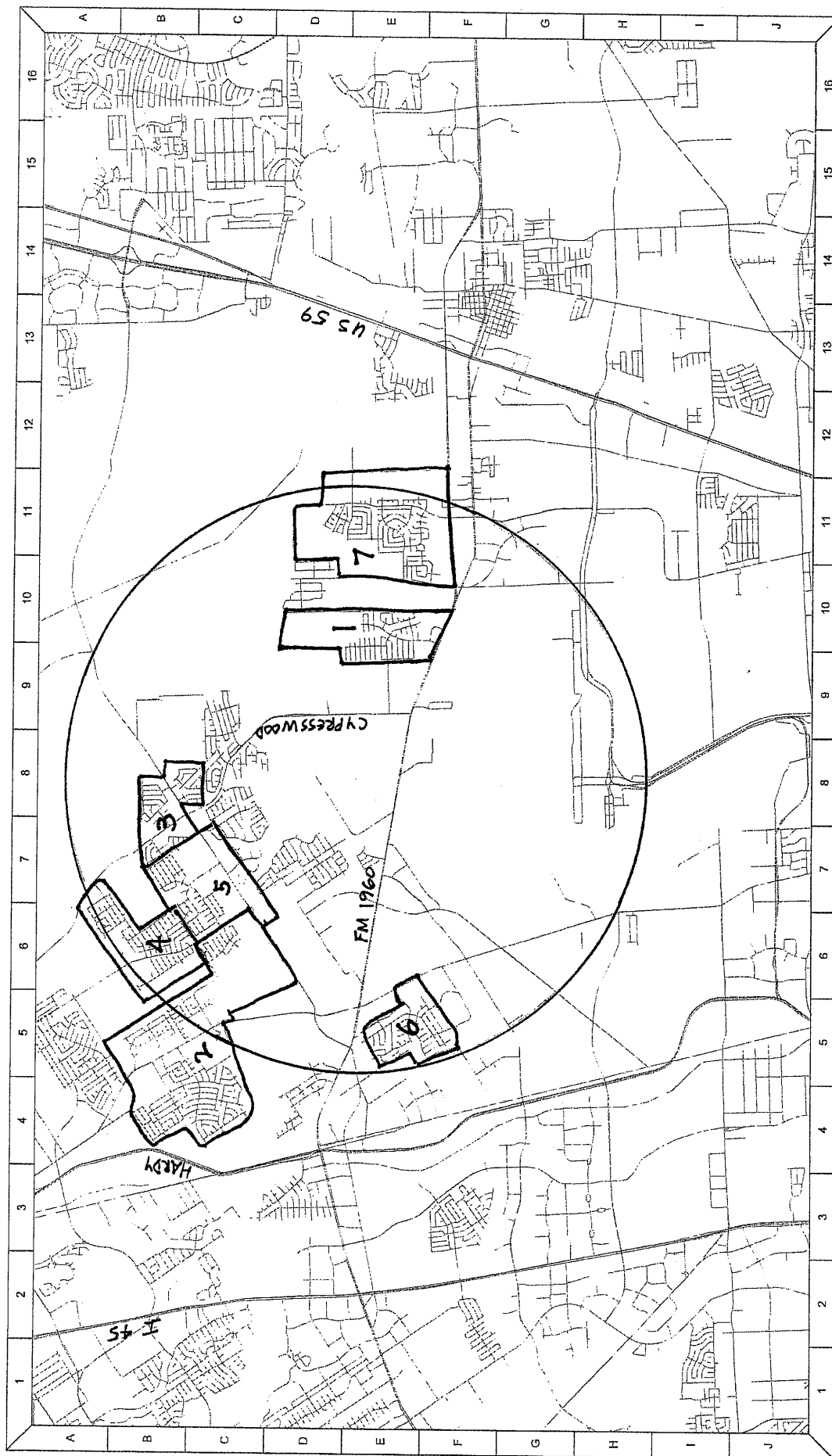


Daniel W. Ingersoll, Staff Attorney
Environmental Law Division
State Bar No. 24062794

ED's Attachment A

List of Treatment Facilities within 3-mile radius of the proposed facility:

<u>Treatment Plant</u>	<u>TCEQ Permit Number</u>
1. Hunter's Glen MUD	WQ 0011618-003
2. Timber Lane UD	WQ 0011142-002
3. Post Wood MUD	No TCEQ Permit But a participant in the Treaschwig Regional Wastewater Facility
4. Harris County MUD 43	No TCEQ Permit But a participant in the Treaschwig Regional Wastewater Facility
5. Treschwig Joint Powers Board	No TCEQ Permit. But a participant in the Treaschwig Regional Wastewater Facility
6. Woodcreek MUD	WQ0011933001
7. Harris County MUD No 26	WQ0011406001



DECLARED TO BE AND REPRESENTS THE BEST INFORMATION AVAILABLE TO THE CITY
THE CITY DOES NOT WARRANT THE ACCURACY OR COMPLETENESS
FIELD VERIFICATIONS SHOULD BE DONE AS NECESSARY

CITY OF HOUSTON
Department of Public Works & Engineering
Geographic Information & Management System (GIMS)





LIPPKE CARTWRIGHT & ROBERTS

April 21, 2009

Hunter's Glen MUD
1001 McKinney St Suite 1000
Johnson Radcliffe Petrov And Bobbin
Houston, Texas 77002-6424

Re: New TDPES Permit

Dear TCEQ TDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing TCEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ TDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: 4/22/09

Signature: Kevin D. Tokarski

Name of Permittee: Hunter's Glen MUD

Printed Name: Kevin J. Tokarski

Capacity Available (Yes/No)? No

Title: District Engineer

Terms (If available): _____

Address: 13353 New Freeway, Ste 300

Houston, TX 77040

Telephone: 713-462-3178

Fax: 713-462-1631

Apr. 21. 2009 8:37AM

No. 6682 P. 2/4

**LIPPKÉ CARTWRIGHT & ROBERTS**
CONSULTING ENGINEERS

Apr. 21, 2009

Timber Lane UD
1100 Louisiana St, Suite 400
Smith Murdaugh Little And Bonham
Houston, Texas 77002-5211

Re: New IDPES Permit

Dear TCEQ IDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing TCEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ IDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: 4/21/09Name of Permittee: Timber Lane UDCapacity Available (Yes/No)? NoTerms (If available): N/A

Signature:

Printed Name: Jeffrey W. VoglerTitle: District EngineerAddress: 2925 Briarpark #275
Houston TX 77042Telephone: 713 782 0042Fax: 713 782 - 5337

Apr 21 2009 8:38AM

No. 6683 P. 2/4



LIPPKÉ CARTWRIGHT & ROBERTS
CONSULTING ENGINEERS

April 21, 2009

Post Wood MUD
3 Greenway Plaza Suite 2000
Coats Rose Yale Ryman And Lee
Houston, Texas 77046-0307

Re: New TDPES Permit

Dear TCEQ TDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing TCEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ TDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: 4-21-09

Name of Permittee: _____

Capacity Available (Yes/No)? NO

Terms (If available): _____

Signature: Edward C. Streich

Printed Name: EDWARD C. STREICH

Title: DISTRICT ENGINEER FOR POST WOOD MUD

Address: 2925 BRIARPARK DR.

HOUSTON, TEXAS 77042

Telephone: 713-821-0957

Fax: 713-278-9294

Apr. 21 2009 8:35AM

No 6684 P 2



LIPPKÉ CARTWRIGHT & ROBERTS
CONSULTING ENGINEERS

April 21, 2009

Harris County MUD 43
1001 Fannin St, Suite 2300
Vinson And Elkins
Houston, Texas 77002-6760

Re: New TDPES Permit

Dear TCEQ TDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing ICEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ TDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: 04-21-2009

Name of Permittee: HCMUD 43

Capacity Available (Yes/No)? NO

Terms (If available):

HCMUD 43 is a

participant in Treschwig

Central Regional

Signature:

Printed Name:

Robert D. Atkinson, Jr., P.E.

Title:

Senior Project Manager

Address:

10555 Westoffice Dr.

Houston, Tx 77042

Telephone:

713-784-4500

Fax:

**LIPPKÉ CARTWRIGHT & ROBERTS**

ONE ARENA PLACE • SUITE 1717 • HOUSTON, TEXAS 77074

April 21, 2009

Treschwig Joint Powers Board
c/o Young & Brooks
1415 Louisiana, 5th Floor
Houston, Texas 77002

Re: New TDPES Permit

Dear TCEQ TDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing TCEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ TDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: 4/21/09
Name of Permittee: TRESCHWIG JOINT POWERS BOARD
Capacity Available (Yes/No)? No
Terms (if available): N/A

Signature: Nancy Blackwell
Printed Name: NANCY BLACKWELL
Title: DISTRICT ENGINEER
Address: 616 FM 1960W, STE 250
HOUSTON, TX 77060
Telephone: 281-350 7027
Fax: 281-350-7035



LIPPKE CARTWRIGHT & ROBERTS

ENGINEERS, ARCHITECTS, PLANNERS

April 21, 2009

Woodcreek Municipal Utility District
C/o Bacon & Wallace, L.L.P.
6363 Woodway, Suite 800
Houston, Texas 77057-1762

Re: New TDPES Permit

Dear TCEQ TDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing TCEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ TDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: April 23, 2009

Name of Permittee: Woodcreek M.U.D.

Capacity Available (Yes/No)? No

Terms (if available): _____

Signature: _____

Printed Name: Ronald S. Koehn, P.E.

Title: District Engineer

Address: 2500 Central Parkway, Suite Z

Houston, Texas 77092-7713

Telephone: 713.682.2527

Fax: 713.682.3002



LIPPKÉ CARTWRIGHT & ROBERTS
CONSULTING ENGINEERS

April 21, 2009

Harris County Municipal Utility District No. 26
c/o Schwartz, Page & Harding, L.L.P.
1300 Post Oak Boulevard, Suite 1400
Houston, Texas 77056

Re: New TDPES Permit

Dear TCEQ TDPES Permit Holder:

We are writing to you on behalf of Harris County MUD 454 located in North Harris County, Texas regarding a proposed project to permit and construct a wastewater treatment plant to serve the residential development located in the Cypress Creek watershed, approx. 3000 ft south of Cypress Creek, North of FM 1960, west of Cypresswood Drive as shown in the attached map. The process of applying for a TCEQ Wastewater Discharge Permit is underway.

We are required to contact all existing TCEQ Wastewater Discharge Permittees within a three mile radius of the project to inquire if an existing permit holder is willing to provide the wastewater treatment capacity needed. According to TCEQ records, you are a permittee having an existing wastewater treatment plant located within three miles of the project and have a TCEQ TDPES Permit. If we find a wastewater treatment plant permit holder within three miles that has the required capacity available or will expand their facility to make it available, we will conduct a feasibility study to determine if it is cost effective to obtain service from them.

We will appreciate receiving a response from you indicating if 0.30 mgd of wastewater treatment capacity in your facility is available, and if so, under what terms. A handwritten reply on a copy of this letter will be adequate. You may fax your response to 713-800-5301. Please feel free to call me at 713-800-5305 if you have any questions. Thank you for your assistance.

Sincerely,

Lippke Cartwright & Roberts, Inc.

Jim Cartwright, P.E.

Date of Reply: 4-21-09

Name of Permittee: HCMUD No. 26

Capacity Available (Yes/No)? No

Terms (If available): _____

Signature: _____

Printed Name: Bradley D. Jenkins

Title: Vice President

Address: 8701 New Trails Drive, Suite 200

The Woodlands, TX 77381

Telephone: 281-363-4039

Fax: 281-363-3459